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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 INSWEB CORPORATION, LEADPOINT,
12 INC., INTERNET BRANDS, INC., AND
13 AUTO INTERNET MARKETING, INC.

14 Plaintiffs,

15 v.

16 AUTOBYTEL, INC., AUTOBYTEL I
17 CORP., f/k/a AVV, INC., DOMINION
ENTERPRISES, RETENTION
PERFORMANCE MARKETING, INC., AND
ONECOMMAND, INC.

18 Defendants.

Case No. 08-CV-0447 WQH (LSP)

**PLAINTIFFS' ANSWER TO
COUNTERCLAIMS OF DEFENDANTS
RETENTION PERFORMANCE
MARKETING, INC, AND
ONECOMMAND, INC.**

20 Plaintiffs, InsWeb Corporation (“InsWeb”), LeadPoint, Inc. (“LeadPoint”), Internet Brands,
21 Inc. (“Internet Brands”), and Auto Internet Marketing, Inc. (“AIM”) (collectively, “Plaintiffs”) file
22 this Answer to the Counterclaims of Retention Performance Marketing, Inc. (“RPM”) and
23 OneCommand, Inc. (“OneCommand”) (collectively, “Defendants”). The numbered paragraphs below
24 correspond to those presented in Defendants’ Counterclaims. Except as expressly admitted below,
25 Plaintiffs deny the allegations and characterizations in Defendants’ Counterclaims.

26 **I. DEFENDANTS' COUNTERCLAIMS**

27 1. Upon information and belief, admitted.
28 2. Upon information and belief, admitted.

1 3. Admitted.

2 4. Admitted.

3 5. Admitted.

4 6. Admitted.

5 7. Plaintiffs admit that this Court has subject matter jurisdiction over any counterclaims
6 and admit that venue is appropriate in this District.

7 8. Denied. As stated in Paragraph 8 of Plaintiffs' Second Amended Complaint for Patent
8 Infringement, Plaintiffs are co-owners of all rights, title, and interest in and each has standing to sue
9 for infringement of the '597 patent.

10 9. Paragraph 9 contains no allegations.

11 10. Plaintiffs admit that they have filed suit alleging that Defendants have infringed the
12 '597 patent.

13 11. Denied.

14 12. Plaintiffs admit that an actual and justiciable controversy exists as to the infringement
15 of the '597 Patent, but deny that the allegations of Defendants' counterclaims are proper for
16 declaratory judgment because they merely constitute a cumulative mirror-image of Plaintiffs'
17 affirmative claims for relief.

18 13. Denied.

19 14. Paragraph 14 contains no allegations.

20 15. Plaintiffs admit that they have filed suit alleging that Defendants have infringed the
21 '597 patent.

22 16. Denied.

23 17. Plaintiffs admit that an actual and justiciable controversy exists as to the infringement
24 of the '597 Patent, but deny that the allegations of Defendants' counterclaims are proper for
25 declaratory judgment because they merely constitute a cumulative mirror-image of Plaintiffs'
26 affirmative claims for relief.

27 18. Denied.

II. AFFIRMATIVE DEFENSES

1. Defendants' counterclaims should be dismissed because they are merely cumulative of Plaintiffs' claims for relief.

2. Defendants' counterclaims should be dismissed because they fail to state a claim for which relief may be granted.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that Defendants take nothing against Plaintiffs by reason of their counterclaims against Plaintiffs, that Plaintiffs be awarded the relief sought in their Second Amended Complaint, that the Court dismiss Defendants' Counterclaims against Plaintiffs in their entirety with prejudice, that Plaintiffs be awarded their costs of suit, including attorneys' fees, and that the Court grant such other and further relief as it deems just and proper.

DATED: August 25, 2008 LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By: /s/Michelle A. Herrera

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MICHAEL HERRERA

Attorneys for Plaintiffs

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